

# COMMITTEE STATEMENT

## LB 829

HEARING DATE: 3/15/99

COMMITTEE ON: Transportation

TITLE: (Kiel, Beutler, Bromm, Brown, Landis, Preister, Raikes, Robak, Schimek, Suttle ) Adopt the Nebraska Transit and Rail Advisory Council Act

### ROLL CALL VOTE – FINAL COMMITTEE ACTION

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Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

#### Vote Results:

6	Yes	Senators Baker, Jones, Bromm, C. Peterson, Hudkins, Janssen,
	No	
	Present, not voting	
2	Absent	Senators Thompson, Dw. Pedersen

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#### PROPOSERS

Senator Kiel  
Richard Schmeling  
John Tone  
James Foote  
Walt Bleich  
Robert Barlow  
Barb Morley  
Graham Johnson  
Christine Earl Bleich  
Jeanne Walter  
Michael Floyd  
Tim Becker

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#### REPRESENTING

Introducer  
ProRail Nebraska  
ProRail Nebraska  
ProRail Nebraska  
NE Citizen action Network  
ProRail Nebraska  
Self  
Self  
NE Sierra Club  
League of Human Dignity  
National Federation of the Blind  
ProRail Nebraska

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#### OPPOSERS

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#### REPRESENTING

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#### NEUTRAL

John Craig

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#### REPRESENTING

NE Dept. of Roads

## COMMITTEE STATEMENT

### SUMMARY OF PURPOSE AND/OR CHANGES:

The bill, as written, creates the Nebraska Transit and Rail Advisory Council, a state-created entity that is a full legal person, and that can issue bonds, collect revenues and otherwise fully manage a passenger rail, or other surface transportation system, in the State of Nebraska. It creates a full set of powers, duties, and obligations for the council (N-TRAC), such that N-TRAC can begin planning a transportation system: the Department of Roads is given duties also to assist N-TRAC in its duties. *The bill is entirely replaced by the Committee Amendment.*

### Original Section by Section Summary

#### Section 1. *Section 1 The Act is named as the "Nebraska Transit and Rail Advisory Council Act"*

#### Section 2. *Legislative Policy is set out as follows:*

- (a) Access to timely and efficient modes of passenger transportation is necessary to the quality of life and economy of the state;*
- (a) Technological advances in passenger transport can positively and significantly affect the business climate and revenues of the state;*
- (a) The development and utilization of a passenger rail system or other mass transit system can act as a catalyst for economic growth and have many other benefits;*
- (a) Joint development between the public and private sector may be necessary and should be encouraged;*
- (a) Transportation benefits include improved travel times and more reliable travel;*

#### Section 2. *The act declares that the Legislature declares that the creation of such a transportation system is a public purpose and that funds and bonds used for its creation are used for a public purpose. The way this should be accomplished is through the creation of the Nebraska Transit and Rail Advisory Council, with the powers and duties specified in this Act.*

#### Section 2. *The Act provides definitions for the following terms: "Department," "High-speed Rail," "Joint Development," "Passenger Rail," "Right-of-way," "Terminus," "Transit Station," and "Associated Development."*

- (1) Creates the Nebraska Transit and Rail Advisory Council, a body politic and corporate and as an independent instrumentality and not as a state agency – the state will be insulated from the debts, liabilities and torts of the N-TRAC. The council will consist of 11 member appointed by the Governor & confirmed by the Legislature, including:*
  - (a) Director of the Department of Roads or designee;*
  - (a) A Public Service Commissioner;*
  - (a) Two members of the general public with demonstrated knowledge of rail etc.;*
  - (a) Two representatives of private railroads;*
  - (a) One representative from the Department of Economic Development; and*
  - (a) Four representatives of local Government.*
- (1) The council will have four-year staggered terms (to be development by the governor), and may be removed for just cause.*
- (1) The members of the council shall have an interest in or knowledge of passenger rail or other passenger surface transportation systems, but must not vote in matters for which they have conflicts of interest.*
- (1) An executive director is authorized.*

## COMMITTEE STATEMENT

- (1) Members who are not employees of the State of Nebraska may get a per-diem not to exceed \$6,000 per year, and may be reimbursed for actual and necessary expenses.*
- (1) A majority of the members constitutes a quorum, and all decisions must be made by a majority of those members present.*
- (1) The council and its members and employees are insulated from personal liability, except in cases of gross negligence.*

*Section 2. The council will be responsible for administering programs and funds for passenger railways, rights of ways, terminus and transit stations, and associated development.*

- (1) The following powers are enumerated:*
  - (a) The power to contract;*
  - (a) The power to sue and be sued;*
  - (a) The power to hire a director and necessary staff;*
  - (a) The power to enter into agreements with public and private entities and persons;*
  - (a) The power to collect, administer and expend funds;*
  - (a) The power to issue bonds;*
  - (a) The power to borrow money;*
  - (a) The power to "loan" federal and state funds, for approved projects;*
  - (a) The power to conduct feasibility or other studies necessary for authorized projects;*
  - (a) The power to exercise eminent domain;*
  - (a) The power to recommend zoning along the route of any railway, etc. it administers;*
  - (a) The power to determine routes, frequency of service and types of equipment;*
  - (a) The power to issue rules and regulations.*

*Section 2. The section outlines the rights of the N-TRAC to acquire property by gift, sale, and eminent domain, and hold it in fee-simple absolute status.*

*Section 2. Lease agreements entered by N-TRAC must include a fair rate of return as determined by reasonable commercial standards.*

*Section 2. Trade secrets held by N-TRACT will be preserved, as necessary.*

*Section 2. The Department of Roads shall have the following duties:*

- (1) Conduct research and assist N-TRAC and develop and review plans for particular projects.*
- (1) Help develop board policies for N-TRAC and to carry out the Act.*
- (1) Advise the public, with respect to the policies, conditions and activities of the department.*
- (1) Hold hearings, make investigations, studies and inspections and fulfill its duties under law;*
- (1) Advance information concerning rail and other surface transportation systems in this State;*
- (1) Furnish necessary assistance to N-TRAC, with respect to projects;*
- (1) Furnish data to N-TRAC*
- (1) Adopt and promulgate rules with respect to its duties under the Act.*

## COMMITTEE STATEMENT

Section 2. *Creates the Nebraska Transit and Rail Advisory Council Cash Fund, which may be used:*

- (a) to defray the expenses of the council;*
- (a) to purchase stock or otherwise invest to facilitate council projects;*
- (a) to purchase and enter into agreements for the operation of a transit system.*
- (1) The state treasurer shall credit to the fund money (a) appropriated by the Legislature, (b) donated, and (c) received under the Act. The Director of the Department of Roads can also transfer other monies to the fund. Investments shall be in the usual manner by the State Investment Officer.*

Section 2. *Creates the Nebraska Transit and Rail Authority Council Revolving Fund.*

Section 2. *Authorizes N-TRAC and the Department of Roads to seek federal funds.*

Section 2. *Allows N-TRAC to accept gifts, donations, money and services (including in-kind gifts).*

Section 2. *Special provisions for political subdivisions to issue bonds for passenger railway purposes are created, having several conditions:*

- (1) There must be a vote of the people in either a primary election or (in odd numbered years only) a special election approving the expenditure of local tax funds to fund such a bond issuance.*
- (1) The resolution calling for the election must include the purpose of issuing the bonds.*
- (1) Notice must be published.*
- (1) The proposition appearing on the ballot must state the purpose of issuing the bonds.*
- (1) If a special election is called, the governing body shall prescribe the form of the ballot to be used.*

Section 2. *N-TRAC may issue bonds from time to time and may redeem them whenever N-TRAC considers it expedient.*

- (1) The bonds, unless expressly stated otherwise, shall be the general obligation of N-TRAC payable out of its monies and revenues.*
- (1) No bonds issued by the council shall constitute a debt, liability or general obligation of the State of Nebraska.*

### EXPLANATION OF COMMITTEE AMENDMENTS

The Committee Amendments replace the original Bill. In essence, the committee amendment creates an N-TRAC that is charged with studying the feasibility and projected costs of constructing a passenger rail or other passenger surface transportation system within Nebraska, and reporting the findings of the study to the Transportation Committee not later than January 1, 2002. The N-TRAC will also have the power and obligation to apply for federal and private grants or donations to pay for the study, before looking to state appropriations to fund the study.

1. The Act is named the "Nebraska Transit and Rail Advisory Council Act."

## COMMITTEE STATEMENT

1. The following Legislative Findings are made:
  - (a) With respect to Benefits to the State of Nebraska:
    - ✓ Access to timely and efficient modes of passenger transportation is necessary to the quality of life and economy of the state;
    - ✓ Technological advances in passenger transport can positively and significantly affect the business climate and revenues of the state;
    - ✓ The development and utilization of a passenger rail system or other mass transit system can act as a catalyst for economic growth and have many other benefits;
    - ✓ Joint development between the public and private sector may be necessary and should be encouraged;
    - ✓ Transportation benefits include improved travel times and more reliable travel.
  - (a) With respect to building and funding a rail or other passenger surface transportation system, is a public purpose for which public money may be used.
1. The following terms are defined: "Department," "High-speed Rail," Joint Development," Passenger Rail," "Right-of-way," "Terminus," Transit Station," and "Associated Development."
1. Creates the Nebraska Transit and Rail Authority Council.
  - (a) The council will consist of 11 member appointed by the Governor & confirmed by the Legislature, including:
    - ✓ Director of the Department of Roads or designee;
    - ✓ A Public Service Commissioner;
    - ✓ Two members of the general public with demonstrated knowledge of rail etc.;
    - ✓ Two representatives of private railroads;
    - ✓ One representative from the Department of Economic Development; and
    - ✓ Four representatives of local Government.
  - (a) The council will serve until the termination of the Act.
  - (a) The members of the council shall have an interest in or knowledge of passenger rail or other passenger surface transportation systems, but must not vote in matters for which they have conflicts of interest.
  - (a) The Department of Roads will assist with administrative and operational support for the council.
  - (a) Members who are not employees of the State of Nebraska may get a per-diem not to exceed \$6,000 per year, and may be reimbursed for actual and necessary expenses.
  - (a) A majority of the members constitutes a quorum, and all decisions must be made by a majority of those members present.
1. The council shall have the powers to do the following:
  - (a) Collect, administer and expend funds;
  - (a) Conduct or authorize feasibility studies;
  - (a) Adopt and promulgate rules and regulations.
1. Trade secrets and other proprietary information filed with the council shall not be considered a public record under § 84-712.01.
1. The Department of Roads shall have the duty to:
  - (a) Conduct, research, prepare and review plans proposed to the council;
  - (a) Conduct feasibility studies;
  - (a) Hold hearings and make investigations, studies and inspections;
  - (a) Furnish necessary assistance to the council in its feasibility study;
  - (a) Make the data and information of the DOR available to the council;
  - (a) Adopt and promulgate rules and regulations.

## COMMITTEE STATEMENT

1. The Nebraska Transit and Rail Advisory Council Cash Fund is created, to be used by the council to carry out its responsibilities under the Act and defray the costs of the council. Monies credited to this fund include (a) state appropriations, (b) donated funds, and (c) other funds received pursuant to this act.
1. The Nebraska Transit and Rail Advisory Council Revolving Fund is created, to be used by the council to carry out its responsibilities under the Act. The council may designate which monies received under this act or otherwise that may be credited to this fund.
1. The Department and the council may expend federal funds received as designated by federal law.
1. The council has the power to accept gifts, donations, money, and services, including in-kind resources, for any purpose allowable under the act.
1. The council (N-TRAC), with the assistance of the DOR, is obligated to complete a study not later than January 1, 2002, on the feasibility and projected costs of constructing a passenger rail, high-speed rail, or passenger surface transportation system. N-TRAC is given an obligation to look specifically at the feasibility of "other passenger surface transportation systems" on a statewide basis. N-Trac will report its findings to the Transportation Committee of the Legislature, as well as suggested legislation to implement the findings.
1. The council and DOR are given a particular obligation to seek federal and private money to implement this act, before requesting a state appropriation to fund the feasibility study.
1. The act terminates on June 30, 2003.

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Senator Curt Bromm